

ONEIDA COUNTY BOARD OF ADJUSTMENT – PUBLIC HEARING

December 21, 2015

1:00 P.M. – Minocqua Room, Minocqua Center

415 Menominee St., Minocqua WI 54548

Chairman Harland Lee called the meeting to order at 1:00 p.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Phil Albert, “here”; Guy Hansen, “here”; Bob Rossi, “here”; Harland Lee, “here”; Norris Ross, “here”; John Bloom, “here”; and Ed Hammer, “here”.

Members absent: None

County staff members present: Peter Wegner, Assistant Zoning Director; Kathy Ray, Land Use Specialist; and Julie Petraitis, Program Assistant

Other individuals present: See Sign in Sheet.

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Chairman Harland Lee stated that the meeting will be held in accordance with Wisconsin open meeting law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment is made up of five regular members and two alternates, both alternates being present today, who will take part in the hearing until the public hearing is closed, at which time the alternates will not take part in the deliberation. Anyone wishing to testify must identify themselves by name, address, and interest in the appeal and shall be placed under oath.

Chairman Harland Lee stated that the Board will hear testimony from the appellant/agent first and then the opposition. Following that, the appellant and opposition will have an opportunity for rebuttal and then closing statements. The public hearing will then be closed from further testimony. Consideration and additional questions can be asked by the Board members of the appellant or the opposition during deliberations. You may stay for the disposition of the appeal. Upon conclusion of the deliberation of the Board, the Chair will call for a motion and a second, and a roll call vote will be taken for the decision of the Board.

Chairman Harland Lee swore in Peter Wegner, Assistant Zoning Director; Kathy Ray, Land Use Specialist; Glenn Wegner, Agent for Sherwin Williams

Secretary Phil Albert read the notice of public hearing for Appeal No. 15-013 into the record.

The Notice of Public Hearing was published in the Northwoods River News on December 5 and December 12, 2015. Mr. Albert stated the proof of publication is contained in the file; and noted that the media was properly notified.

The Oneida County Board of Adjustment Rules of Procedure, Section 178.05(12), Chapter 17, Oneida County Code of Ordinance, provide that a timely appeal shall stay all proceedings and furtherance of the action appealed from, unless such stay would cause imminent peril to life or property.

The Board of Adjustment will conduct an onsite inspection of the property involved in this appeal beginning at approximately 10:00 am prior to the hearing. Pertinent property boundaries and locations of existing and proposed structures shall be clearly identified. A representative or the appellant must be present. The inspection shall be open to the public.

Copies of appeals and related documents are available for public inspection during normal business hours at the Planning and Zoning Office, Oneida County Courthouse, Rhinelander, WI 54501. The Oneida County Zoning and Shoreland Protection Ordinance is available on the Internet at <http://www.co.oneida.wi.gov/>.

Secretary Albert stated that all media outlets were notified of the public hearing and the onsite inspection was conducted between 9:40 and 9:50 on September 21, 2015. Jamie Ott, Manager of the Sherwin Williams Store, was present along with all Board members, alternates, Zoning Staff Pete Wegner, and Kathy Ray.

Prior to the public hearing, the Board conducted an onsite inspection at 8520 Hwy Fifty-one North further described at part of Government Lot 1, Unrcd MINOC-WOOD, Section T39N, R6E, and 8522 Hwy 51, PIN #'s MI 2179-44, 2179-45, 2179-47 and 2179-49, Town of Minocqua, Oneida County, Wisconsin. Observations by the Board: It is self-declaratory in terms of it being a multi-tenant property. In terms of the request, pictures, as Exhibit A to show the legal size of the sign compared to what the Town of Minocqua Plan Commission actually approved at an earlier meeting and then suggest to Sherwin Williams that they should apply for the variance to the Sign Ordinance. That concludes the comments in terms of the site visit.

Discussion was held on the pictures (Exhibit A).

Chairman Lee explained the procedure of the hearing and the three criteria that the Board must determine are met in order to grant a variance.

Mr. (Glenn) Wegner: On behalf of Sherwin Williams, this is an appeal to the original declining of our permit application from the Town of Minocqua through the County Board to allow for a 64 square foot, single sided building sign for Sherwin Williams. As per code allowance, we are only allowed 32 square feet, the way that the code is written. What we are asking for, since the building is setback off the Highway quite a way and the face of the building is substantially

bigger than what the tenant is actually renting; the 32 square foot sign looks significantly small and is tough to read from that distance compared to the other signage in that area. So, what we are asking for is to allow for the 64 square foot to be more in proportion to the rest of the signage in the area and to the building face to allow for more visibility from Highway 51. As far as public interest, it would be in the best interest of the public to be able to find this store. There is a multi-tenant sign in the front but it is a busy sign so to allow them greater visibility and advertising purposes, we felt that the 64 square foot would be in the best interest of the public to locate this business. Unnecessary hardships would include distance from the Highway, being that it is only visible from the south and not the north and basically looking just too small on that façade. Therefore, we are asking for a variance to go up to 64 square foot.

Mr. Lee: Okay. For the benefit of the public, if you do not know where this business is located it is right next to Save More; between Save More and the Slumberland facility. Mr. (Pete) Wegner, do you have any comments from the County?

Mr. (Pete) Wegner: Not many. This is a unique situation where the distance from the right-of-way and the view actually makes it difficult to see the property. The sign that is there now is hard to read. This is like the entire front of the building (showing a picture of the building). We based it on approximately right here (pointing to the picture) because that is where their front ends; the face of the building ends. If you were to add this to it, you would have been closer to meeting that, actually meeting the 1250. This is just a void between this and Slumberland (pointing to picture). We, as the County, do not really have any objection to it. The Town is in favor of it. It is one of those things that are in our Ordinance.

Mr. Lee: Okay. Any questions?

Mr. Hansen: Is there any reason you did not include the extra frontage so that it would be legal?

Mr. (Pete) Wegner: Because it joins with this other...

Ms. Ray: Slumberland actually goes about up to...

Mr. Rossi: They occupy up to there?

Ms. Ray: They do. So it's deceiving because it's a little cove that you would think is the entire business but Slumberland's property actually...

Mr. Hansen: So the front of the Sherwin Williams store overlaps Slumberland's building?

Mr. (Pete) Wegner: Yep, it all flows together.

Mr. Hammer: What's the size of the Slumberland sign?

Mr. (Pete) Wegner: What they are proposing is, I believe, 47.34 square feet.

Ms. Ray: No, Slumberland.

Mr. (Pete) Wegner: Oh, I'm not sure.

Mr. Lee: Slumberland's is pretty big compared to what you're asking for.

Mr. (Glenn) Wegner: Right.

Mr. Ross: I have a question about signs. Slumberland's is cut out letters, so is the sign only as big as the letters?

Mr. (Glenn) Wegner: I believe you draw a box around it.

Mr. (Pete) Wegner: We draw a box around it.

Mr. Ross: You do?

Mr. (Pete) Wegner: Yes.

Mr. Ross: Okay.

Mr. (Pete) Wegner: Kathy Ray just reminded me that when Slumberland came in for their permit it was based at five-percent of the face. It was a different rule at that time.

Mr. Lee: Yes, that's been up there a while.

Mr. Ross: Ah, Grandfathered.

Mr. Lee: Another question? Any questions for Sherwin Williams?

Mr. Rossi: Yes, I do. The only other exposure they would have is that freestanding sign out there?

Mr. (Glenn) Wegner: Correct.

Mr. Rossi: And that changes. It's not always Sherwin Williams, is it?

Mr. (Glenn) Wegner: Well, there is a, that is the Save More Market Place multi-tenant sign where you have Save More Plaza and then you have a message center and then below that there is a multi-tenant sign that has three slots.

Mr. Lee: I think the sign he is talking about is the one that is on the Verizon building.

Mr. Rossi: Yes.

Mr. Hansen: And right now, it's Sherwin Williams.

Mr. Rossi: But it does change.

Mr. Lee: Right now, I think it's Lieninkugle on one side and Sherwin Willilams on the other. Are you familiar with that sign?

Mr. (Glenn) Wegner: No

Mr. Albert: I thought Jamie said it was temporary.

Mr. Lee: It's just a temporary sign. It changes.

Mr. (Glenn) Wegner: I wasn't familiar with that one.

Mr. Rossi: Okay, thank you.

Mr. Hansen: Which is a good deal bigger than what they want to put on the front of the building, actually.

Mr. Lee: Mark, this is okay with the Town?

Mr. Hartzheim: It went through the Town Plan Commission and they had no objections. It seemed to make sense given the distance from the Highway. The size of the sign seemed realistic so they basically said they welcome the County to look at revising that with a step up with the size and a certain distance from the road.

Mr. Lee: There are a number of things the County needs to take a look at. We discussed that this morning.

Mr. Hartzheim: We want to do what seems reasonable for the general public and I think most would say that they would allow a little bit larger sign.

Mr. Lee: Any other questions from the Board? Alright, if there are no other questions I will close this part of the public hearing and the Board will deliberate the case and make a decision and then we will move on. Anybody want to...

Mr. Albert: I would cut to the quick and say that the three criteria we have to face in terms of unique physical property: the Storefront or what appears to be the storefront makes it a unique property based on the splitting of the property, which should allow a larger sign to be on the face of Sherwin Williams. I agree there is no harm; I would propose that there is no harm to the public interest in the fact that it may help to identify where Sherwin Williams is located in that multi-complex, and in terms of unnecessary hardship it could be a hardship to Sherwin Williams trying to attract folks when they can't see the sign from the road. In light of those three criteria, I would propose that the variance be granted.

Mr. Lee: Is there a second?

Mr. Rossi/Mr. Bloom: I'll second it.

Mr. Lee: Is there any discussion on the motion? Hearing none, I'll call the roll:

Mr. Bloom: Aye

Mr. Rossi: Aye

Mr. Hansen: Aye

Mr. Albert: Aye

Mr. Lee: Aye. The motion is approved and the appeal is granted. The official writing of the decision will probably be delayed for a week or so but it is approved.

Mr. (Glenn) Wegner: Okay. Are we allowed to install until we get that approval in hand?

Mr. (Pete) Wegner: Yes. You are going to need a Zoning Permit from us, or a Sign Permit. I know you already filled one out but we will need another one because the other one was denied. Once you get that, it shouldn't be a problem.

Mr. (Glenn) Wegner: So we need to apply, again, to the County.

Mr. (Pete) Wegner: The only thing is, it's at your own risk because if there was an aggrieved party they have 45 days to appeal the decision by the Board of Adjustment.

Mr. (Glenn) Wegner: Okay.

Mr. (Pete) Wegner: There is nobody here that is in opposition so...

Mr. (Glenn) Wegner: Okay. The reason being is they are anxious to get this up and tomorrow I do have an opening so I was hoping to do that.

Mr. Lee: That's up to you.

Mr. (Pete) Wegner: I say this 45-day thing like a broken record. But, if I don't say it and you go ahead and somebody has an issue with it later...

Mr. (Glenn) Wegner: Okay.

Mr. (Pete) Wegner: That's your risk but I highly doubt it. We would have seen something. We didn't get anything in the file. The Board of Adjustment didn't get anything in the file in opposition to it. Plus you have the backing of the Town.

Mr. (Glenn) Wegner: Okay. Do we need to have to go through the Town Board, again?

Mr. (Pete) Wegner: No.

Mr. (Glenn) Wegner: So just submit the application?

Mr. (Pete) Wegner: Yes. We'll just transfer the fee.

Ms. Ray: Jeff is in the office now if you want to fill out the application.

More than one person talking, here.

Mr. (Glenn) Wegner: I'll go grab that right now.

Ms. Ray: Okay, I'll issue it this afternoon.

Mr. (Glenn) Wegner: We'll plan on seeing that tomorrow, then. Thank you. Anything else from you, then?

Mr. Lee: No.

Mr. Lee: Okay, we will proceed to Appeal #15-012 of H51 LLC, owners and James Rein, agent. The procedure will be the same, Jim. You've gone through this before.

Mr. Lee swore in Pete Wegner, Kathy Ray, Jim Rein, Jr., Mark Pertile, Mark Hartzheim and Sally Murwin.

Mr. Rein: This came about when we came through with the original development design for the project. We brought it into the Town for approvals and sat through many meetings. The County does not allow; the Ordinance does not allow for any structures to be built within the 75' setback. Pavement or roads are considered a structure therefore; it wasn't allowed to pave the section between the building and the Town Road. What we did is we moved forward with the approval process based upon the fact that we could put gravel, recycled asphalt, rock and granite, whatever we needed to do with the base of it. With the County and the Town, actually I don't know if the County did but the Town did; requested that we come in for a variance for that area to be paved to reduce any type of runoff from any other surface that would be placed there. If we keep the gravel there, we keep the recycled pavement the rock and granite there is a drainage pattern that is going to go towards the existing Town Road, which can go across the Town Road into the Lake. There is a grassy swale between the Lake and the Road but you are still going to have the chance of any kind of sedimentation getting into the Lake. With asphalt we're able to redirect our water flow into catch basins, stormwater systems, anything that doesn't make it into those catch basins or stormwater systems goes across the asphalt of the Town Road but it's asphalt to asphalt it's not likely anything else other than the asphalt. What we've done is we've got an approved stormwater plan performed by REI, out of Wausau, that went through the whole design status as that being a caved surface that is also shipped off to the DNR for a Chapter 30 permit. I have not gotten an approval from the DNR, yet. The reason we've got a unique situation there is that we've got a Town Road. The access to those buildings is a Town Road or off of Hwy 51. Hwy 51, because it's on a curvature, isn't a really good site vision so the Town Road has a better site vision. Existing construction along that road, as you've seen when you were on site, there is a lot of parking lots and access to their lots from the lake side of the Town Road. That's how everybody's done it for years. You go all the way down to the Motel at the end of the point and that already accesses off Lakeshore Drive. The pattern of development was there, with the asphalt. The old ReMax building, which had been Hunter Realty prior to that, to the south that has always had an access down there that drained down to the lake; direct drainage. The neighbors to the north, Tom Warrants, working away further north they all drain towards the lake so it's been an existing pattern; and existing development

pattern. There is definitely uniqueness to that property along with the whole Island of Minocqua because we have a road system that encompasses the Island basically. That is kind of a unique thing that is there. The hardship falls in the fact that you try to reduce the amount of runoff to that site. If there were some sort of allowance in the County Ordinance to allow for something to do that we wouldn't be here. There's just no other way to get rid of that stormwater unless we can get it conditioned to (can't hear what is being said, here)... Currently, right now, the way it is designed is that all of the roof drains, there is going to be gutter placed around the whole structure. That gutter goes down into down spouts; the down spouts go down into underground catch basins that go to the catch basins at the lake that discharge. So all your roof water is going directly from the roof to the lake, which is classified as clean water from the DNR because it's clean water from the sky. The site itself; we've got catch basins designed on the 51 side that catches all the rain direction on the back side that puts it in the catch basins and brings it down. We're trying to get rid of as much surface runoff as possible in the catch basins to get the least amount of sedimentation cleaned up. I think the post and pre development site; if you actually look at what was disturbed on the site prior to the construction of the buildings, there was actually more impervious surface on the site prior to the new construction than there is when we're completed. As far as the amount of surface runoff and things like that compared to what was there prior to we are actually reducing it by a little bit. Not much but a little bit. Is there any other questions?

Mr. Lee: Are there questions from the Board?

Mr. Albert: You said 'approved plan in terms of stormwater management plan' had been approved by the Town, the County or the Lakes Association; in fact I don't think any of the three have really seen the full management plan at this point, have they?

Mr. Rein: Yes, the Town has copies; the County has copies of it.

Mr. Albert: When was that given?

Mr. Rein: That was even during the; when we brought in the preliminary design before we got Conditional Use approval.

Mr. Wegner: This isn't like a final plan, per se. It doesn't show...

Mr. Albert: There's calculations but I don't believe there any...

Mr. Rein: That's the final plan.

Mr. Wegner: But it doesn't show how it's being taken care of. It doesn't show...

Mr. Rein: Yes it does. If you read through the whole plan it talks about the amount of piping is going in, where it's exiting and infiltration. That's how we based the whole approval when we got the Conditional Use permit.

Mr. Wegner: Let me just read this one portion.

Mr. Ross: I guess while he's looking; I don't know who is at fault or not but we've not seen it.



Mr. Rein: Right and I guess the County has had this...

Mr. Pertile: We have not seen it.

Mr. Rein: I guess I didn't realize you guys needed to see the stormwater plan for the variance.

Mr. Ross: I think that would affect whether we think it should be blacktopped.

Mr. Wegner: I thought I read somewhere here that they didn't size it because of it not being finalized because they weren't sure if it was going to be all gravel or if a portion of it would be paved or if the whole thing was paved.

Mr. Rein: No, that was never in there. Not that I know of.

Mr. Pertile: Jimmy, we met and went over the plan just recently but there is a final grading plan and storm sewer plan and you were adding some inlets...

Mr. Rein: Mark and I have been through so different...because the other thing that happened is we met with Mark last week. We kind of looked at adding some more catch basins just on the fact of how this site has been constructed afterwards. You can always plan the best you possibly can but once you start seeing water move in certain directions you might want to add a catch basin here and a catch basin there. Mark and I met last week and kind of went through some final adjustments on what we thought would be a better way to do it. Just on adding more catch basins. The system itself is still the same. There is a 12-inch outlet going to the lake; it's just adding more catch basins to maybe help with...

Mr. Wegner: This is what I was reading; 'the proposed improvements of Hwy 51 LLC site were not analyzed for infiltration requirements as we develop projects, originally permitted prior to October 1, 2004 exempt from the NR 151.'

Mr. Rein: From the infiltration requirements, correct. We aren't doing infiltration we're doing catch basins and direct flow.

Mr. Wegner: I think that's what the confusion was because this is what was submitted with the CUP and then we discussed the CUP it shows infiltration trench...

Mr. Rein: Yes, and that was not; we decided not to do the infiltration trench.

Mr. Wegner: It's on the one you gave the Board of Adjustment though.

Mr. Rein: I think if you read in the outflow of the map; you'll see there's outflows on the ones that I gave, this tells you what the outflow is. All your catch basins will come to here and ... (looking at documents). **Can't understand what is being said here.**  
This was designed not to be used.

**Can't understand what Mr. Wegner says here.**

Mr. Rein: The other thing is you still need...

Mr. Wegner: I guess that I don't know that I reviewed the final plan because we didn't even know what the final impervious surface was going to be.

Mr. Rein: If you read the Conditional Use Permit approval, I think it's approved.

Mr. Albert: No.

Mr. Rein: I thought it was.

Mr. Albert: The CUP says subject to Town conditions.

Mr. Lee: Jim, when you're talking about a catch basin this isn't being treated in any way, right?

Mr. Rein: No.

Mr. Lee: It's just catching the water. It doesn't do anything but pool it all together and it still runs into the lake.

Mr. Wegner: It will take care of some of it.

Mr. Lee: It could just as well run into the lake without a catch basin.

Mr. Rein: It is like the same system you have out on 51 and all the road systems that come through, that's how storm systems work. You catch the water, you put a sump in the bottom of the catch basin so then the water comes in the sedimentation goes to the bottom the water all flows and it goes into the lake. And that's what you try to do. You try to put as many catch basins in the site as you possibly can to catch that sedimentation. You look at what water is doing and what its not doing. So clean water would be like roof water. Anything that hits the roof of a building is called clean water because it's not collecting any sedimentation to it. That's why when you take a roof system you try to collect all that roof water and directly down pull that to the lake. You try not to put it on the soil because the minute it hits the soil then it collects debris, particles whatever it is that have to be removed out before it goes to the lake. So what you try to do with the roof design is you get all the water to go into catch basins and then direct that to the lake.

Mr. Wegner: Jimmy this is the one they need to see, the one with the SAP.

Mr. Hammer: But those catch basins are you basically using the same catch basins for the clean water as for the other runoff?

Mr. Rein: Yes.

Mr. Albert: You describe those catch basins as a 1x4 cement...

Mr. Rein: You use those catch basins that are about 4 foot tall and about 20 some inches in diameter, 'cuz I can crawl inside of one. They have a sump in the bottom of them. Some sumps

are different. Some sumps you want to go real deep on projects because the deeper the sump the better. It can collect as much. Here you can't use a real deep sump because if you use too deep a sump we're into ground water; we're below the lake which will force the catch basins up. The heights of these are; they get about a 1-foot sump and about a foot to 16" sump in the bottom of it for collection. Then what happens is the water comes into those catch basins, it fills up to the outlet pipe, the sedimentation that's in the water settles to the bottom of the sump and that's where your water comes through. So anything that is holding any debris runs through. What you try to do is you try to run through, if you can possibly, run them through as many catch basins as possible before it hits the outflow to the lake because then your collection between each sump collects more and more.

Mr. Hammer: With the volume of the rainwater coming off the roof how does that impact the ability of the catch basins to do their job? What I'm hearing you say is you're using the same delivery system to the lake.

Mr. Rein: Correct.

Mr. Hammer: Wouldn't it be better to have the clean water separated from the other water?

Mr. Rein: You're kind of asking a question I really don't know if I can answer under oath because I'm not an engineer that designs it; that's why I sub it out to an engineer who designs it. They've always told me what you want to do is reduce the amount of outflows to the lake to as many as possible. You want it to come to one system. That being said, I couldn't even answer that question. I know what you're saying.

Mr. Hammer: You'd have a better system if it at some point separated before it goes to the sump.

Mr. Pertile: Well, we had MSA review it and that was one of their questions when they reviewed the report provided by REI; was that it appeared that the roofing and the sand mottling were just basically running out on the ground and weren't considered in those calculations. That is one thing I asked to be corrected or be commented on by REI to verify. There was three things, there was six items in the report that I requested verification on and one was the Chapter 30 permit which is actually being applied to because it combines sites more than an acre so the DNR has to make a determination on that right now and then, of course, the sand mottling which is still in question regarding the roof drains; were they included in the calculations or not. MSA said they appeared not to be so they wanted verification on that and then the other thing was some of the approaches may not have been included in the overall stormwater calculations, also. So those three things need verification. I don't know if Jimmy talked to REI on those.

Mr. Rein: I've requested some more clarification on it.

Mr. Pertile: And then the other thing, from my standpoint, just looking at the site and how those driveways are laid out and each opening and the amount of inlets they have on the last plan they provided it is going to be very difficult for them to create those inlets correctly. When I met with Jimmy, I can't force him to do anything, but from our standpoint we want him to consider to put in more inlets in those areas to catch the water prior to going into the lake or

the one right across the road. What's going to happen, what they have proposed here is it's all going to go across the road in the lake. The goal of those inlets, like I said, it catches suspended solids prior to going into the lake. The road they created going into there they still get a 40% reduction, is what we talked about, for suspended solids for them to meet. I think the Town is okay with that. That's where this plan is not finalized yet. There's only a couple structures. For each structure that they have and the depth of the sump they get a certain amount of credit for their suspended solid reduction. The more that they have the easier they reach that credit. It does prevent a little better water quality. The other thing we talked about is the depth of the storm sewer and the size of the pipe. The size of the pipe will probably be adequate given the area involved. It's just the depth of cover; the outfall on the west side of Lakeview Drive and then on the east side where the existing structure is there's quite a grade. I've talked to Jimmy about that. I think it's beneficial that it be lowered so the structures aren't so shallow that they freeze out all the time and in the spring we have all that water running into the lake. Jimmy thought it was the right thing to do in adding those inlets. You were going to work on a revised plan and I'm not sure where you're at with that.

Mr. Rein: I was meeting with; trying to figure out those underground utilities today trying to figure that stuff out.

Mr. Pertile: I think it's important that we focus on that. I think it's reasonable we focus on working with Jimmy on this H51 trying to accomplish those additional catch basins and getting that storm sewer lower. I know there's utility conflicts and they have to be worked out; but overall it's going to be a better system so I think from getting a final plan there's still a way to do that. I don't know how you're going to evaluate it in meeting your decision today. From the Town's point of view, I think its beneficial that we get those tied into the system and the system is lowered and those items 1, 2 and 3 on that memo are addressed and corrected as needed. Then I think we're pretty much comfortable moving forward.

Mr. Lee: I think that's one of the questions that we had early on when we reviewed this material was whether or not the approval has been finalized as far as all of these things. The appellant has their plan, you guys were to hire somebody and get a plan and work out any differences between them. The Lake Association was supposed to have some input into this and the County before it was finally approved. It is my understanding that the last T is not crossed and the last period is not dotted on the approval process. Is that correct?

Mr. Rein: Until it's constructed, right.

Mr. Lee: Okay. At this point, I'd like to ask the Lake Association for their comments.

Ms. Murwin: I'm the Chair of the Minocqua Lake Association.

Mr. Lee: Can you state your name?

Ms. Murwin: Sally Murwin.

Mr. Lee: And you represent the Lake Association?

Ms. Murwin: The Chair. Our main concern is the runoff and when the Highway was put in we were involved and we saw their plans. What I would request that when you do have a finalized plan that you inform us that we can look at them like we did with the Highway Department. You answered my question about the percentages of what is going to be filtered out, the Highway was 45%, you said 40%?

Mr. Pertile: A minimum of 40%.

Ms. Murwin: Who is going to clean those out and is there a schedule that you have about cleaning them?

Mr. Rein: The County wanted to make sure when we talked about this that we put it in the Condo Declarations.

**More than one person talking at once here.**

Mr. Rein: It's a real simple thing within the Condo Declarations because of the Conditional Use stipulations.

Ms. Murwin: I guess, as a representative of the Lake Association, that some sort of point of this drain system is put into effect and approved before you guys are going to build any of the condos. When you said 'oh we have the condos there so you can see the runoff'.

Mr. Rein: Right. We were just adding because there was, and I really shouldn't have said it that way, it's just when you look at the back side of H51 nobody even realized how much water was coming off that City sidewalk. There is so much water coming off there nobody knew it but there is. There is a ton of water coming off that sidewalk the way the State designed it. Those are some things that we didn't realize that were going to happen until you actually saw it happen on the site.

Ms. Murwin: If you can come up with a good system, and I told you guys this when you were showing us the plans, that bay in Lake Minocqua is absolutely the worst bay there is on this lake. It is full of algae and it's always been that way. Now, if a good system is proposed that bay could probably be improved a little bit.

Mr. Rein: Right.

Ms. Murwin: I guess that, but I guess the system has to be approved by experts before you guys are given the go ahead to go further on this building.

Mr. Rein: We haven't even started the construction of the stormwater system until we get all the approvals completed.

Ms. Murwin: It's kind of iffy. I talked to Mark this morning about what is approved. Does the DNR have to be involved in it?

Mr. Rein: The DNR, what we did is we questioned the DNR. The fact is my engineer's that I hired said we didn't need DNR. The State said there is a chance you'd need DNR approval.

When you go to the DNR site you fill in if you need approval it says no. You call Wendy and Wendy said maybe and then she kicked me off to a new gal who actually said 'yes, we do want one'. That's where I'm at right now. Everything has been submitted to them. The fees have been paid. I gave it to them and now we're at their mercy for their review of the Chapter 30 permit. During this whole thing, we still have not submitted a final Condominium Plat to the County. I think I just did it last week so we're still in the middle of the actual approval of the Condominium that is going to take place and the stormwater system would be part of that Condominium approval. The whole reason for this meeting, right here, is for the variance to allow us instead of to have gravel in the parking area is to allow us to place a somewhat hard surface that will alleviate some of that issue of having the gravel.

Ms. Murwin: And I would agree with that.

Mr. Rein: That's where we're at right now. Once I get through the approval process if we can say 'yes, we have asphalt', now I can go through the full slam with the asphalt and the design and everything else how we're going to grade it. If I don't then we've got to come back with another slam design that says there's no asphalt here it's all gravel; how are we going to handle this water? Therefore, everything on the final of how we're going to handle it kind of comes about how the Board of Adjustment is going to grant this variance for what surface we can use there.

Mr. Wegner: Either way isn't this affected now by setbacks and other criteria because it's now under DNR review?

Mr. Rein: Yes. Well...

Mr. Wegner: So that's our third moving target now. Setback to the ordinary high water mark would be 50' now that they have to go over...

Mr. Rein: No, I don't think so.

Mr. Wegner: The consultant you hired said so.

Mr. Lee: While Pete is researching that, we have some questions.

Mr. Bloom: I have a comment and then a question for Jim, or a couple questions. Number one with the catch basins, we're not really here to discuss catch basins but they'd only partially work in the summertime or in the early fall. They're shallow, they're frozen up, and they don't work period. That's number one. Number two, I'm looking at three letters here from the Oneida County Planning and Zoning and the first thing, going back to April 24, 2015, it says 'Dear Property Owner, an Administrative Review Permit is hereby issued for the project listed above contingent on the following conditions. Failure to comply with these conditions will invalidate this approval'. One of the conditions is under 3B: 'driveways must be paved with a pervious hard surface material'; 10: 'stormwater management, erosion control plans as required by the DNR'; and all three of these letters talk about pervious drive and parking areas. Why is it, and this goes back to April, why is it now knowing this and knowing what your criteria was you bring up impervious areas and just a minute ago you said you didn't have a Condo approval then, why are they constructing them without approval?

Mr. Rein: There's a, we actually have a Conditional Use Permit to construct the buildings. That came about after the ARP. The ARP was the first thing we came through with when we were going to do, I think that is for the duplex or fourplex.

Mr. Bloom: We got it for the fourplex and the 12.

Mr. Rein: And when we went through the Conditional Use Permit for the duplex they approved it with the contingency that, hopefully, we could get the variance and if not we'd have to come back and relook at how we'd end up doing that stormwater. So I actually have a building permit. I have the conditional use all approved. What the Condo Plat is is a form of ownership of how they are going to sell them after they are constructed. It is about how you are going to take title to a unit and how the limited common elements are and how the common elements fall. That is usually done after, or during, the construction at some point. It is usually never done at the front it is done kind of during the middle. You have to get the Conditional Use Permit first and then once we get the Conditional Use Permit then we get the ability to run the Condominium Plat through.

Mr. Bloom: Why did you proceed knowing full well that all these letters mentioned pervious hard surface? You mentioned gravel that was going back to last April. Why now are you shifting gears?

Mr. Rein: I wasn't shifting gears.

Mr. Bloom: Somebody was.

Mr. Rein: No. I think, and maybe Kathy can help me out here...

Mr. Wegner: We couldn't approve the CUP with proposed blacktop because it is not allowed. So the idea was to accept it as gravel, all the plans have gravel, that's why maybe there's some confusion in REI's report. We considered it gravel at that time.

Mr. Rein: The County is the one that recommended that we come for a variance.

Mr. Lee: John, if you look at the Conditional Use Permit, which is July 20...

Mr. Wegner: It was assumed that later getting ...

Mr. Lee: If you look at number 15 of the Conditional Use Permit, it says 'applicant is proposing gravel driveways at this time. A variance is required for any structured driveway access within 75' of the ordinary high water mark.' That is why we're here today. But in my view we couldn't act on it unless we have the issue of the water management plan resolved because I think that effects that.

Mr. Rein: It does.

Mr. Lee: And that goes back to item number three in this Conditional Use Permit where it says 'subject to Town conditions as outlined in their July 7 letter' and that letter says that you hire

somebody to build a plan, the Town hires somebody. The plans get together, which we talked about here, that the Lake Association review it and once the things are all agreed upon then we can come back here and act on number 15. Because we've got all of it in place and that's why I'm thinking that without all of these final approvals and everybody having their look at it I don't think we can do anything. That is just my view.

Mr. Rein: How we looked at it and how the County looked at it is I can't get my final documents done until I know I can pave it.

Mr. Wegner: Can't he crunch these numbers with the different variables; one is gravel and one is pavement and the different coefficient that go with them as far as...

Mr. Rein: You probably could but we all talked about...

Mr. Wegner: I guess there is no final plan that shows where this water is going regardless of what type of surface there is, which goes back to what they're saying.

Mr. Rein: I guess you have a cart and a horse and you're trying to get everything down the path but if we can't pave it or we can't get a variance from the gravel...

Mr. Wegner: What do you think will change? Isn't more the volume versus the type of system that is going to be used? You're not going to go back to a trench system.

Mr. Rein: It's going to be, no you can't really go back to the trench system.

Mr. Wegner: It is just going to be bigger pipe and more catch basins.

Mr. Rein: It's going to be bigger pipes and more catch basins is what it is going to be. You're still going to have the same exact system it just depends on the size the system is going to be compared to what that structure is.

Mr. Ross: Personally, though I'm not going to vote, I personally would like to see the final plan. Assuming its gravel and here's the number of catch basins and drains etc., this is what is likely to happen and then say; 'what happens to that plan if it is paved'?

Mr. Rein: That is something I guess we could do.

Mr. Ross: That's what makes sense to us as outsiders. We don't have a plan.

Mr. Lee: Let me ask the Lake Association; would you rather have gravel in the lake or water in the lake?

Ms. Murwin: I'd rather have water in the Lake.

Mr. Lee: There you have it.

Ms. Murwin: Clean water.



More than one person talking here.

Mr. Lee: I understand that but I can't guarantee it is clean water but I can guarantee that it will be gravel if it's the other way.

Ms. Murwin: For sure and I've been down that road along there during a rain storm and it just goes...

Mr. Lee: We're between gravel and a hard place here, ourselves.

Mr. Wegner: Where in the report, in MSA's report, does it specifically say they'd rather see asphalt than anything else?

Mr. Rein: It was actually talked about. When we talked to the Planning Commission, I talked with REI and I said we're looking at; I think we originally talked about like a brick or some kind of pervious hard surface which you can get like the brick or you've got pervious hard surfaces. It was decided not to go that route because it plugs up that clog so then they wanted me to come back to you guys to see if I need to get asphalt or concrete. We decide not to go with concrete because it can break up due to salt and everything else. So then, they wanted me to come to the Board of Adjustment to see if I can get asphalt. So it was decided to run the slams and everything with an asphalt surface to make sure we were going to comply and meet all requirements with an asphalt surface. So that's how this was done; using a full asphalt surface to run the slam models and make sure it is fine.

Mr. Bloom: I have one question for you. You just mentioned if you had an alternative to gravel, and you do but your comment was 'but it would plug up'. Guess what, it's plugging up with contamination and you'd have to clean that. That would get clear water to the lake.

Mr. Rein: What it is, I would still need a variance to have any other surface. If I needed a brick pervious, like a brick pervious paving system the County would not allow that. I originally presented, way back when, I presented this thing as a grass paver. We looked at this thing and said, 'ok lets get rid of the gravel, lets get rid of the concrete, lets get rid of the asphalt and lets get rid of everything else and do a grass paver where you put the concrete paver blocks and then you plant grass between them and it's a grass paver. Pete and I did a ton of research on that and decided it isn't going to survive. The first couple of winters it is going to be dead. So then, we went back. Pete and I spent a lot of time on this.

Mr. Wegner: We went to pavers and we were told basically in this climate, in this area with plowing and sanding you're just throwing money out the window because it's going to be clogged.

Mr. Rein: So that's when everything was decided to push this thing towards asphalt if possible, but we can't put the asphalt there unless we get a variance.

Mr. Hansen: I think I'm agreeing with what other members have said. I don't know if anyone has any other information than I do. I don't see anything from REI or MSA as far as proposals and the wording in here is kind of, it says that after all this discussion it was decided. It doesn't really say who decided to do what, but I'm uncomfortable with either gravel or asphalt the way

it is being presented at this point. I have a question for the Town and I don't know more about this than what I've read in the paper but as far as trying to preserve the quality of the lakes in the Minocqua region. Didn't the Town initiate or pass some rules as far as runoff from roads and impervious surfaces to the lakes to try to improve the quality of the water? And if so how does this mesh with what was...

Mr. Hartzheim: We're under County Zoning so we haven't passed any of our stormwater rules.

Mr. Hansen: So was that just discussion or was there...

Ms. Murwin: Well the Lake Association did propose that. There was a big plan to put storm sewers being put down here because everything that comes off of these road down here goes right down to that boat landing.

Mr. Hartzheim: There's some things that the Lake Association was looking at to try to reduce runoff on the Island but I think, hopefully, we'll still try to work on it. Mark is trying...

Ms. Murwin: That was proposed to the Town a couple years ago.

Mr. Hartzheim: We don't have any of our own rules.

Mr. Albert: So on Highway 51, when that whole reconstruction was done I thought there was sewer work that was part of that. Is there not storm sewer? Why can't at least the drainage of 19,821 square feet of roof be drained off into the storm sewer system on Hwy 51?

Mr. Hartzheim: I guess you'd have to ask...

Mr. Wegner: Isn't it maxed out already?

Mr. Rein: The design criteria for the road; they can't dump into the storm, they don't want us dumping more than they already have.

Mr. Wegner: They already have O'Reilly's.

Mr. Rein: They make you keep your own water. Second of all, that storm system that was put in by the DOT drains in the lake.

Mr. Albert: Where?

Mr. Rein: There's one at the bridge, there's...**More than one person talking here.**

Mr. Hartzheim: I guess the upside, there used to be zero catch basins and now...

Ms. Murwin: That's improved a lot.

Mr. Hartzheim: It eventually goes into the Lake but these are big, deep crocks that...

Mr. Albert: Catch basins are a lot different. A significant magnitude versus...

**More than one person talking here.**

Mr. Hartzheim: There's another one that's that little one at Lakeview Drive, the storm interceptor that treats a fairly good amount of that, too, before goes out into the Lake.

Mr. Hansen: When you say treat, how do you mean treat?

Mr. Hartzheim: It holds it long enough that it actually has suspended solids settle out instead of some of these little storm catch basins or crocks, whatever you want to call it, if there's a high volume of water coming in it's not stopping much.

Mr. Hansen: And that's the question about the roof drains going into these catch basins...

Mr. Hartzheim: I don't know, Jimmy, if its possible to talk to DOT about if you don't have geographically the ability to contain the water and I know that is part of their and Chapter 30, is if you're going to develop something find a way to contain the water on your property.

Mr. Rein: That is what all the side lots dump it landward, not off the Highway. The problem is when you look at a storm system for a Highway, like if you're going down the Highway like toward Wal-Mart, there's so much pavement there its designed for an even to handle all that water for, the road and anything else dumping to that adds too much to it and it floods the system. On 51 they are having a hard time deciding how much water they can actually contain because its such a wide road and there is so much asphalt that drains to the road the DOT was having a heck of a time designing that thing to actually work to even get it. So when O'Reilley and the rest of these; when we do a lot of design constructions for anything on 51 DOT makes me hold that water on site, condition it onsite and then release it. They won't let me dump into the storm system other than if already there was an existing drain that went to it. When you had this site right here (pointing at map), originally where that condo sits right now was Manson Insurance and Manson Insurance all drained toward the Lake. There wasn't even a catch basin there was a pipe that was in the middle of the parking lot that drained directly to the lake and catches it. It was a direct pull. At that site, I can't add to the Highway because it wasn't adding to the Highway originally it was going away from it. The same thing with ReMax, the only part of the ReMax parking lot and buildings had drained toward the Highway were about the first ten feet along side the front on the road side; everything else drained toward the lake. So, therefore, we can't add anything else into the storm system onto the Highway because everything drains away from it.

Mr. Hartzheim: Keep the roof drains going into a crock or whatever might settle, probably just shingle...

Mr. Rein: That is all you're pulling out is any kind of asphalt shingles, right.

Mr. Hartzheim: But at least if you could get it into a separate crock system where it's not just flushing the sediment out from the stuff running off grade...

Mr. Albert: That's what I was going to ask. As you've designed this, and this was actually REI's drawing...

Mr. Rein: REI designed it.

Mr. Albert: There's two open areas. Basically one between the buildings why couldn't there be some kind of catch basin in each one of those to take the stormwater off the roof, which again was...

Mr. Wegner: Doesn't one of them show a swale...

Mr. Rein: There is. There is a grassy swale that goes to the catch basin and then drains into the whole system that drains out to the lake.

Mr. Pertile: That's where some of those were going to be added; some of those catch basins.

Mr. Rein: But still it's all added to the same system.

Mr. Hammer: Which we haven't seen a finalized plan of.

Mr. Albert: But you have an elevation here much different than you do in the parking area where you could go with a deeper catch basin...

Mr. Rein: Those can be a lot deeper.

Mr. Albert: But that's not part of this plan. It's not shown here.

Mr. Rein: No because it wasn't required.

Mr. Hansen: And I think there could be baffling or something in there that would also improve the sedimentation in the basins so the water doesn't just shoot through there and create turbulence.

Mr. Rein: I think how catch basins are designed, like I said they're catch basins, it's a cylinder concrete block. It's a round concrete tube and when we talk about the basin in the bottom or the sump in the bottom of it it's actually where the pipes are elevated on the side walls. If you just have a drainage system, what it does is the drain sits on the bottom of the pipe; it comes in and drains right out. With baffling systems what will happen is if you have too much; I don't think you could have a baffling system in what they have called chamber systems where it will flow into one to the next to the next. I think that's kind of what you're talking about where you flow and flow to the next to the next to reduce the amount of sedimentation that goes into...

Mr. Hansen: That would be another possibility. Baffling or screening or there are other designs that...

Mr. Wegner: You probably would not have room for that would you?

Mr. Rein: I'm totally wrong, I'm totally wrong on this. We, still, the variance is for the asphalt not for the stormwater system. We can all sit here; I'll be honest with you I'm not an engineer

that designs stormwater that's why I kick them out to Mid States and REI and the rest of the companies.

Mr. Lee: Any variance that we would grant, if we were to grant one, applies only to the driveway.

Mr. Rein: Only to the driveway, correct.

Mr. Lee: But I think that the Board, if I am reading the Board right, feels that the water management plan has an impact on that decision. If you want to call it the chicken or the egg, which comes first I think we're saying the chicken is the water management plan and once everybody has signed off on that then we will come back with a variance, maybe, of one kind or another. And that will be the egg portion. If that makes any sense.

Mr. Hartzheim: Yes, I think Jimmy what...

Mr. Rein: And I can draft it up. I guess what I'm looking for is what we talked about wasn't that. When we went through all the approval processes...

Mr. Hartzheim: I think what you're hearing from the Town and the Lake Association in this whole process, including now, is we're not opposed to that being paved provided there is an effective storm water plan. We don't think there is a final plan and I think you do have to get REI to say what do these numbers look like with pavement.

Mr. Rein: Right.

Mr. Hartzheim: And then they have something to say okay we will grant this appeal or not. But our key, I think when we talked I think all the public hearings, was the number one concern of ours and I think the Lake Association is storm water. There's no question the general public's concern; everybody has a question about whether they do or don't like about condos but I think everybody was concerned about the stormwater.

Mr. Rein: Right. And we have, just so we all know the plan we submitted. I guess when I say it's hard to look at a site when it's close to pre-construction we calculate the design that was approved by REI but when Mark and I looked at it; sometimes when you're looking at a site you say okay there's a three foot elevation change between the road and the building and we have catch basins coming in here; sometimes until you build it it's all here nothing has been changed per plan; but when you look at it you go maybe we could add a few things here and more things to help out. I don't have a problem calling REI and asking them to run this slam with gravel as a base compared to asphalt I just don't know what you're going to...

Mr. Pertile: In light of where this is going, the Town, I think for the most part in discussions with the Planning Commission we were in favor of an impervious surface or a pervious paver, which is a structure. The choice is up to the developer. So they basically, the way they are approaching this is the impervious surface, blacktop for the storm sewer system. Are we comfortable with that? I guess if we have the final plan all put together I think we can make it all work. We just need to see all those things come together so we're comfortable with that final system. Your development of buildings right now I think it should be a good point if you

finalize that plan. Not only on the slam calculations but an actual drawing showing all the catch basins. The ones in the grass, the one for the roof drains and stuff like that, the one in front of the garage doors. I would suggest if you have that final plan that would make everything a lot easier.

Mr. Rein: I don't have a, I mean my final plan has to come when the DNR actually gives me the approval. Right now how we were going about it was we basically had a shoreland alteration permit that the County approves and gives it to us. If I don't require a DNR permit that's all I need for approval is the County's Shoreland Alteration Permit.

Mr. Hansen: What do you have to have from the County?

Mr. Rein: A Shoreland Alteration Permit, which we already have. We have a shoreland alteration permit that was approved. We have all the building permits that are approved so we're able to construct. It's just the fact that now we're ironing out some details on the stormwater system. But I don't know what the ironing out of the stormwater system is going to aid to you guys making a decision if I can have asphalt or not. I think everybody here understands that the best system is to have asphalt than to have gravel. Correct?

Mr. Wegner: I don't know anymore.

Mr. Hammer: I think that...

Mr. Wegner: The coefficient for gravel might be so low that it might slow the water going down to the catch basins. After your first few rainfalls, you're going to get rid of sedimentation.

More than one person talking here.

Mr. Rossi: I'd like to ask a question. I've seen on blacktop where cars have been parked and oil drops out of the car and then the rain and I see it going down and the oil is on top, obviously. These catch basins will do nothing for that, would they?

Mr. Pertile: You're going to get some treatment out of that.

Mr. Rein: What happens is...

Mr. Rossi: How do you get treatment from it?

Mr. Pertile: Delusion...

Mr. Rossi: Delusion?

Mr. Bloom: Into the lake.

Mr. Pertile: It will attach to solids and settle. You're not going to get; in a major rain event if somebody just leaked acid and it rains twenty minutes later yeah, some of that stuff is going to reach the body of water further down in the system.

Mr. Hansen: A catch basin can be designed a little bit like a septic tank where the floatable material is trapped on the surface and the sand settles out. That's possible depending on the flow through the system.

Mr. Rein: That's oil trap. Usually oil traps are in an enclosed system not an external system because usually what happens is they dry out. An internal system you can keep wet, it's a wet system and you pull that out.

Mr. Hansen: Like for car washes.

Mr. Lee: Any other questions?

Mr. Bloom: No, but I have one comment as I find this just absolutely mind boggling that this is such an important thing with the stormwater and to have the CUP approved and go ahead and build before this was resolved when it should have been. That's my only comment.

Mr. Lee: I'm going to close the public hearing from any further input and ask the Board to discuss the matter and come to some decision.

Mr. Rossi: My opinion is you're asking us to run a car without fuel. I haven't got all the stuff here. I don't know what's going on. I don't know what that planning company you have, I don't know what that's going to be. I don't know whether you're going to end up with asphalt or gravel or what's going to happen. It's very difficult for me to make any type of decision.

Mr. Hansen: I understand the intent of their request but I agree, I don't think we have all the information.

Mr. Bloom: I think we should table it until we have plans for both pervious and impervious systems by REI or another water engineer.

Mr. Albert: In light of the CUP conditions, specifically item number 3 of the July 20, 2015 letter from Oneida County referring to the Town's letter of July 7, 2015 which requires approval from the Town, the County and the Lakes Association of the stormwater plan and the requested paving between the road and the structure as being part and partial to a plan I would move to table this request until such a final plan can be presented and approved by the various parties. Second by Rossi/Bloom.

Mr. Lee: Is there discussion on the motion?

Mr. Hansen: I agree. This will involve both the Town and the Lake Association in this process, right.

Mr. Lee: Yes, and the County.

Mr. Hansen: And then back to us?

Mr. Lee: Yes. Any further discussion? If not I'll call the question. All right, I'll call the roll call.

Mr. Rossi, “aye”; Mr. Albert, “aye”; Mr. Bloom, “aye”; Mr. Hansen, “aye”; and Mr. Lee votes “aye”. The motion carried. We are tabling the appeal until we get all the information.

**Motion by Mr. Lee, second by Mr. Rossi to delay the writing of the decision until December 29, 2015. With all members present voting “aye”, the motion carried.**

**2:10 pm - The meeting was adjourned on a motion by Ed Hammer and second by Phil Albert and Guy Hansen; and all members voting aye.**

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Harland Lee, Chairman

Phil Albert, Secretary

DRAFT